

TOWN OF FOXBOROUGH
SELECTMEN'S MEETING
MINUTES
MAY 26, 2015

Members Present: Christopher P. Mitchell, Acting Chairman
James J. DeVellis
David S. Feldman
John R. Gray
Virginia M. Coppola

Others Present: William G. Keegan, Jr., Town Manager
Ms. Mary Beth Bernard, Assistant Town Manager
Attorney Kate Connelly, Louison, Costello & Pfaff
Mr. Jim Nolan, NPS, LLC
Attorney Karen Simao, McDermott, Quilty & Miller
Mr. Daniel Glaberson, Splitsville/Howl at the Moon
Mr. A.J. Dooley, Dooley Disposal
Mr. Anthony Spitalieri, Dooley Disposal

The meeting was brought to order at 7:00pm by Christopher Mitchell.

Mr. Mitchell read the agenda.

7:00pm – Board of Selectmen Reorganization

Motion by Christopher Mitchell to take the agenda out of order and vote on the third topic which was the reorganization of the Board. Seconded by John Gray. **Vote 5-0-0**

Attorney Connelly stated she had been asked to take a look at the votes that were taken on May 12, 2015 and she reviewed the tape and applicable law (which was very little) and sent a letter to the Board. Boards have the discretionary authority to handle reorganization however they want to according to whatever their policies are. There is some guidance in Roberts Rules of Order which the Board has not officially adopted, but after review of those informal rules the requirement is simply that nominations be taken and there is no requirement for a second.

What happened at the May 12, 2015 meeting was that there appeared to be a little bit of inconsistency/ambiguity of what the Board intended so it is in the Board's discretion to rescind and revote those positions if that is what they choose to do. If the Board decides to do that Attorney Connelly's recommendation would be for them to rescind the whole slate; all three positions so there is no confusion as to whether there is still a position out there that has been filled and then take nominations and revote all of them this evening in order. She recommended that Mr. Mitchell conduct all three of the votes because another thing that could cause ambiguity is that these votes are effective immediately unless someone declines their position. If the Board elects the Chairman and they then switch and have the Chairman do the remaining votes that

might cause a little bit of inconsistency as to how the meeting was run. This part of the meeting should be run by one person. Once the reorganization is done whoever is voted as the new Chairman can handle the rest of the meeting.

Mr. DeVellis stated that the Board of Selectmen has not adopted Roberts Rules of Order so are they going to proceed under Roberts Rules of Order or something different. This is a broader question for the boards in town. Attorney Connelly stated the Board of Selectmen would have to adopt it and they also have a handbook that governs the various boards. This wouldn't apply to the Board of Selectmen but anything they require the other boards to do the Board of Selectmen should also follow but they are not obligated to abide by anything that is in the handbook. There is nothing that governs how they do this; boards can do whatever they want.

Motion by Christopher Mitchell to rescind all votes from the reorganization meeting two weeks ago. Seconded by David Feldman. **Vote 5-0-0**

Motion by David Feldman to allow Christopher Mitchell to run the election process and the reorganization. Seconded by James DeVellis. **Vote 5-0-0**

David Feldman nominated James DeVellis as Chairman.

Virginia Coppola nominated John Gray as Chairman.

Ms. Coppola thinks Mr. Gray has proven himself to be a leader amongst other committees he has been on; he was Chairman of the Advisory Committee and he was also Clerk and Vice Chairman for the Board of Selectmen and she thinks he would be perfectly capable to be a good chairman of the Board of Selectmen.

Christopher Mitchell asked all those in favor of James DeVellis for Chairman. **Vote 3-2-0 with John Gray and Virginia Coppola opposed.**

Christopher Mitchell nominated David Feldman to be Vice Chairman. Seconded by James DeVellis. **Vote 5-0-0**

David Feldman nominated Christopher Mitchell to be Clerk. Seconded by James DeVellis. **Vote 5-0-0**

Mr. DeVellis took over as Chairman for the meeting.

Mr. DeVellis thanked everyone and stated that he looks forward to a successful year.

7:12pm – Citizen's Input – No one was present for citizen's input.

7:12pm – Selectmen's Update

Mr. Feldman stated that on May 27, 2015 at 3:00pm the Foxboro High School Boosters are rededicating the Edward Guy flagpole honoring Declan Maloney for his work with the

birdhouses and dedicating the new baseball and softball fields. All are welcome to attend and it should be a really good event. A lot of work went into getting the fields built and getting it to the stage where they are at today.

Mr. Mitchell thanked Michael Johns for his part in yesterday's Memorial Day Celebration. Mr. Mitchell has been marching in that parade with all the scouts for the last 15-17 years and each year the turnout gets better and better. He hopes with Mike's leadership it will continue to grow; and it will. Mr. Keegan stated that it was an excellent event.

7:15pm – NPS, LLC – Public Hearing – Alteration of Premise – James Nolan, Attorney Karen Simao, McDermott, Quilty & Miller

Mr. Mitchell read the public hearing notice.

Attorney Simao stated that the application before the Board is the application for the amendment of the description of the licensed premises. She wanted to distinguish it from some licensees who amend the description of the premises to extend beyond the footprint of the premises. Before Mr. Nolan's presentation she wanted to make it perfectly clear that the footprint of the licensed premises remains unchanged; the changes are all within the existing premises and the application submitted provides a copy of the footprint on the floor plan of the three upgraded areas. She also provided the Board with handouts with more in depth information on those locations.

Mr. Nolan stated that Gillette Stadium opened in 2002 and they have seen a couple of things happen since 2002, one being the competition from their own product, the television product. Flat panel televisions are cheap and are in everyone's homes and are able to broadcast between the red zone; being able to watch multiple games, it is a very powerful product. They have been systematically upgrading Gillette Stadium at their cost to keep ahead of the curve. They are always finding new amenities and new things for their patrons who come down on game day to see and use. Going over the past several years they have added Wi-Fi to the building and they have been the first NFL facility to be successful with Wi-Fi. They put new scoreboards in, ribbon boards, club and suite upgrades, ADA elevators and have also undergone some parking and traffic upgrades and even gate entry upgrades trying to improve every facet of the game day experience.

The three projects in front of the Board are geared toward improving the experience for the general fan season ticket holders.

First with respect to the application they have met with Chief O'Leary, Chief Hatfield and Bill Casbarra, Building Commissioner to review the plans and made sure they incorporate any comments they had in the process. Attorney Simao mentioned this project is within the existing stadium footprint. The areas where these properties sit were areas within their liquor license footprint so they are not expanding the perimeters. Generally they are going to run these facilities like they run their Putnam Club. These will have a dedicated manager and it will be their employees conducting the alcohol service. They are all team trained following the guidelines of the liquor regulations and for them that is just the way they operate. Additionally,

similar to what they do in the Putnam Club, in the Optum Lounge and Cross Pavilion they are going to have separate police details. It is the same thing that they do at Putnam both East and West and they are going to follow a similar process here. They meet with both Chiefs before every ticketed event they hold. It is always an evolutionary process but from day one both clubs will have dedicated Foxborough Police Officers in them. They don't expect to have any issues in these clubs but one of the things they have is a very large season-ticket holder base who know the repercussions of acting up in Gillette Stadium. The incidences that Chief O'Leary has had to deal with over the past decade are far different than what he handled over the decade before that. In recent years the behavior has been really good because of that. In each of these locations they are not adding new people who are not season-ticket holders into the building; it is the same pool of people there are just different amenities for that pool of people coming in.

Mr. Nolan started with the Optum Field Lounge. This is located in the south end zone where they used to take out the seats for concerts and going into the underside of the stadium. It is a paid membership so currently they have 800 members and that is where they capped it this year. Each of those members pay a separate fee to get into that location but each of them are season-ticket holders. This is only marketed to Patriots season-ticket holders. They started by approaching the most senior ticket holders because they have been with them the longest moving forward. This property will operate in the same way they operate the Putnam Club and the same hours on game day.

Additionally this club and the Cross Pavilion can be used on nonevent days to expand their business. There are times when they have events that want to come to Foxborough that they don't have the space to do it. These two properties are going to allow them to bring more events to the stadium on nongame days.

The last couple of years, one of the things that they have heard is if they had a large open space like Cross Pavilion there are a lot of groups that are looking for space like that. The other thing are the hotels, this big space will draw people to go to the hotel and the hotel will draw people to them. They think it dovetails nicely with some other construction going on in Foxborough now.

Mr. Nolan pointed out to the Board on the second page of his handout the different layouts that they might try inside the space depending on the type of event. The top side is more of a game day set with tables inside for the members and in the bottom pictures more of a theater style set up for nonevent days.

The Cross Pavilion sits in the old picnic zone. It is a large open space on the inside and it will function very well as a function space on nonevent days. On event days it will serve two purposes; it will be a higher end hospitality for up to 500 people per game. It is very similar to how they operate the Dana Farber Fieldhouse. It will open 2 ½ hours before kickoff. 30 minutes before kickoff this space would be open to the general public. On cold days they can get warm, on warm days they can get cold and on wet days they can get dry.

The next two pages of the handout are sample layouts that are layouts of the exact building but they are looking at the different types of things that they can do in there. One is theater style seating with a large stage and the second page shows variations of setups for the table and chairs.

The third property which is in a location near the UBid Ramp in the former prime sport gate is going to be called the “Draft Kings Sport Zone”. It is a fantasy football service where you can play different games week to week. It is a rapidly growing business and what they wanted to bring to the stadium is a place on the concourse where people can come in and get fantasy sports information. This is essentially an existing glorified concession stand. The space that was part of the concourse is now enclosed. On bad weather days they have doors that they can close to keep it tempered but on nice days the doors will be wide open and hopefully free-flowing from the concourse into it. They took portable food courts and corralled them in the center and took several beverage locations and replicated those inside.

Those are the three projects and they are very excited to bring those on board because it gives all of their fans another reason to continue to come to games at Gillette Stadium.

Mr. Keegan stated that the Police Chief, the Fire Chief and the Building Commissioner have all stated that they have met with the stadium staff. They are all satisfied with the information that they received and a lot of their ideas have been incorporated into the plans as well as the fact that the Building Commissioner has been monitoring the construction of this as it’s been going on as well. He has already identified the occupancy of all of the facilities as well as there shouldn’t be any questions beyond this that Mr. Keegan is aware of. Mr. DeVellis asked if the Planning Board was part of this at this point and Mr. Keegan stated that he has not heard anything back from them.

Mr. DeVellis asked if the Building Commissioner and Police Chief had anything to add. The Building Commissioner stated nothing further than what he had told Mr. Keegan and his only concern was the occupancy.

Chief O’Leary stated that they have had several meetings with Mr. Nolan, Mr. Briggs, the Security Supervisor and Mr. Murphy about these three facilities and as Mr. Keegan indicated his input was received and as they have gotten closer to the actual construction and layout that the Board is seeing tonight they have devised various operational plans both for policing the locations as well as ensuring security and operations. Chief O’Leary is confident that these changes won’t create any additional hazards.

7:25pm – Public Hearing – Splitsville/Howl at the Moon Change of Hours for Entertainment License – Daniel Glaberson

Christopher Mitchell read the public hearing notice.

Mr. DeVellis stated that this public hearing will be continued.

7:26pm - NPS, LLC – Public Hearing – Alteration of Premise – James Nolan, Attorney Karen Simao, McDermott, Quilty & Miller (Cont’d)

Mr. Gray asked how many seats will be removed from the end zone. Mr. Nolan stated he believed it would be in the 2,000 seat range. Mr. Gray had heard that it was going to be 2,500.

Mr. Nolan stated that it would be in the 2,000+/- stage. Mr. Gray stated given the licensing agreement they have with the town that would be a net loss in ticket revenue to the town. Mr. Gray didn't know if anywhere in the model these seats were shifted somewhere else and the revenue stream would remain consistent. Mr. Nolan stated that this property will generate more meals tax for the town and that he hasn't done an analysis of what that meals tax would be versus the loss in ticket tax. Between the function business there will be significant new meals tax money coming to the town. Mr. Gray stated that right now in lieu of taxes the town owns the land underneath the stadium but wanted to know if the town owned the land underneath the entire perimeter of this depiction. Mr. Casbarra, Building Commissioner stated they are on the footprint that is owned by the town. Attorney Simao stated just as a point of process from the legal amendment of the description of premise whatever agreements are in place they need to have a separate discussion on those agreements. They are happy to do that but as it relates to the consideration of the amendment they want to be sure to note on the record that obviously the financial consideration on that contract isn't part of the consideration under Chapter 138 for the amendment.

Mr. Mitchell asked if those 2,000 ticket holders were in there and didn't get kicked to the curb. Mr. Nolan stated yes they are in there. They started the process two years ago and they all had the option to upgrade their seats to a higher price seat but keep the same price, or downgrade at their discretion. Not one of them lost their season tickets and they also made sure that everyone in that pool that was impacted had the ability to opt into this membership if they chose to.

Mr. Mitchell asked on nonevent days at both the Cross and Optum how many people they would hold. Mr. Nolan stated for functions they are both about 1,000 people as per the occupancy permit. The way they would operate them depends on what the event is. Theater style would end up with more people than if you were doing a wedding with a dance floor and a bunch of tables. In any event it wouldn't exceed the occupancy the town has given to them for those properties.

Mr. Mitchell asked if the Draft Kings would be open to the public. Mr. Nolan stated that yes, as long as they had a stadium ticket. Mr. Gray stated that he had spoken with Mr. Murphy about this and Mr. Murphy had stated if it was hitting capacity they had the ability to close the doors to limit traffic into the concession area. Mr. Nolan stated yes, that facility has the ability to operate on any given day with the glass doors down and those doors define the egress portion of the overall capacity that they can put in there. If they do that they will be checking people in and out to make sure that they don't exceed the occupancy.

Mr. Gray stated that Mr. Murphy said at the Optum Theater they were going to limit capacity to 850. Mr. Nolan stated right now it is 800 to 850 and they stopped it at 800 members. They want everyone to have a very positive experience so if they see the 800 people having a great experience and they can add another 100 they will do that. If they find that 800 is the right number that's where they will keep it. The same with Cross, they are going to manage the number of people in there versus the occupancy permit so on game day once they open it to the public there is one door in and one door out. Mr. Keegan stated that the Building Commissioner has certified that the Optum Lounge has a maximum capacity of 999 which means they are 100 below that maximum capacity.

Mr. Feldman asked if the Cross Pavilion's intent was to replace the pregame festivities that are currently taking place at Dana Farber. Mr. Nolan stated no. At the Dana-Farber Fieldhouse they run during the regular season approximately 1,500 people per game. Mr. Nolan stated there may be some people that used to purchase the Fieldhouse that will come up to Cross, but Cross is really geared toward a new membership program. It is for people who are looking for a higher-end tailgate. Mr. Gray asked if the Cross Pavilion would be having any events that they would sell tickets to. Mr. Nolan stated that it was possible, but they haven't gotten that far down the line yet. Mr. Gray asked if those tickets would fall under the sale agreement they have with the town. Mr. Nolan stated that it is his understanding that a paid ticket equates to the ticket tax.

Ms. Coppola stated that they had said that there were 2,500 seats removed from the Optum. Mr. Nolan stated that he believes it's around 2,000 which have been physically removed. Ms. Coppola stated that those seats were payment in lieu of taxes so the town would get \$2.55 per ticket sold so with the loss of those seats the town is no longer getting the \$2.55 during game days. Mr. Nolan stated that is correct. Ms. Coppola asked if they would be providing food at the Optum and Mr. Nolan stated yes. Ms. Coppola stated that the town would normally get \$2.55 per seat plus meals tax for any food sold. The revenue really isn't going to be made up with the meals tax because of the loss of seating. Mr. Nolan stated the meals tax would be generated on non-game days. When they have a function in that place that is new business they're bringing to the town. Ms. Coppola wanted to know if they had a mechanism to recoup the money they would be losing on those seats. Mr. Nolan stated that he is not an attorney and the lease states that a minimum amount of taxes are due to the town that they have to pay. If they host no events at the stadium they have to write the town a check. From building, they risk their money to bring non-football events to the stadium. They work diligently and tirelessly to bring the Taylor Swift's and Kenny Chesney's and the Monster Jams, etc. These events are contemplated in the lease because the town gets a higher amount for every ticket they sell on those events; there is no set threshold. This year they're going to have the most concerts they have ever had at Gillette Stadium. The town tax will be the highest they ever had. That's because in partnership with the town they are risking their money in their efforts to host successful and profitable events. It's not counted this year but in 2016 they are going to open with the Winter Classic. If no one shows up at the stadium the town gets a minimum amount of taxes. They have to exceed that threshold. That is what was contemplated back in the 1990's when the deal was struck to protect the town. Any upside over that is good for the town and it's good for everyone. They want to bring business to this town and when they bring business to this town specifically the concerts, he's not sure what the numbers are but this concert season should bring \$800,000-\$900,000 to the town in town tax alone never mind any ancillary revenue such as meals tax, hotel taxes, or everything else that goes along with it. Even a lot of people in town can work at those games whether they are folks in their concession stands or police officers so there is economic benefit to all of that. Is it good for the stadium, yes, they try to be successful and they also recognize when they are successful it is also good for the town. Mr. Gray asked what the capacity the old stadium was. Mr. Nolan stated it was barely 60,000. Mr. Gray asked what it is now. Mr. Nolan stated 68,000. Mr. Gray asked what it would be after this. Mr. Nolan stated in the 66,000 range. Mr. Gray stated Mr. Nolan's argument is that they will make up the decrease in seats with more events. Mr. Nolan stated this would depend year-to-year. Every year they try to bring in as many successful events as they can but there is no guarantee. Mr. Nolan stated the more events

they can bring in the better for both of them. Mr. Keegan stated what they are trying to do is change the dynamic of the stadium so that it still becomes an experience that people will go to. Ultimately that is what we as a town have to think about because the more successful that they are the more successful the town is. Mr. Keegan fully acknowledges Ms. Coppola's comment that there are less seats, if they can do more events there because of the new structure, the town will ultimately make out in the end. Mr. Nolan stated the Cross, the current hotel and the future hotel are going to play very well together along with the other club on the west side.

Mr. Keegan stated there is still a question about the membership to the club; he thinks that is still a question that has to be answered. Mr. Keegan stated that the Optum membership is a ticket so there's still a question as to whether the town should get some of that money but that is a lease issue.

Mr. Gray asked in regards to a liquor license they are not adding new patrons on top of what they already have; traffic is going to decrease. Mr. Nolan stated yes. The silver lining to this is they are going to have 2,500 less people coming through their gates so the fans coming are going to get in quicker; they are going to have 2,500 less people using their bathrooms; they average three people per car on the road so they are taking 800 cars off of Route One. It may not seem like much but years ago they had 4,000 standing room only tickets, but what they realized is this only hurt the experience of their season-ticket holders particularly in the lower bowl. When they ratcheted it back to 2,000 they saw the experience improve and when they ratcheted back to zero it was the best thing they did.

Mr. Gray asked if there was a private function at the Cross Pavilion would the town get anything for that function. Attorney Simao stated that when the lease agreement was first drafted there were no traditional ticket sales for a private event so she does not see this falling into it. There could be some ticketed events there and if that were the case it would fall under the lease. Mr. Keegan asked if the Optum Pavilion was contemplated for any small concert venue. Mr. Nolan stated their focus right now is bringing in conventions that have been looking for that space and working with the different convention bureaus and people who have been to their facility before and to host true convention events like they have been hosting in the Putnam Club. Right now they are looking at it more as presentations, weddings, bar mitzvah's and business meetings. They haven't contemplated bringing such things as a concert in there for 700 people.

Mr. Feldman asked what their seating capacity is for concerts. Mr. Nolan stated it varies, on average it is about 50,000. Mr. Feldman stated so a loss of 2,500 seats for concerts has really no impact. All they are talking about is 8 season football games and a playoff game. Mr. Nolan stated yes, and that one of the unique things they had done was make removable seats and the whole wall is removable so if they have a concert they can build all the way back to that glass line.

Mr. DeVellis stated where this is an ABCC liquor license they've had Attorney Dave DeLuca review the application. Attorney DeLuca stated this is a Chapter 138 issue and they as a Board have absolute authority to review and decide based upon the public interest and common good whether or not the request for Alteration of Premises is consistent with their alcohol policies. Attorney DeLuca advised through Mr. Keegan that the Board should take a look at it from a level

of 10,000 feet to make sure what they have is a licensed perimeter remains in place and then they should also look at it from a height of about 100 feet. So they have a right to know and understand where the walls are, where the service areas are, where the storage areas are, who is going to be populating those areas and at what time. The third area of concern is the Board's well-developed rules and regulations; they still apply here. Attorney DeLuca wants the applicant to be aware as well that there are very specific provisions of the Board's rules and regulations that would continue to apply here, for example, there is a provision that the licensee shall notify the Chief of Police regarding a gathering of more than 400 patrons in one area or collective gatherings of more than 750 patrons. There are also closing hour requirements that would still apply, 20 minutes before closing hour the beverages would stop service at that time and all customers must be off the premises 15 minutes after the closing hour.

Attorney DeLuca stated that if there are going to be any requested changes those would have to be specific conditions. Attorney DeLuca stated outside of that he thinks the Board has taken the proper approach.

Ms. Coppola asked attorney DeLuca if there was a violation that warranted a three-day suspension would that apply to the entire area or if there was a violation in the Optum would it just apply to that. Attorney DeLuca stated that a violation in any area of any premises would affect the entire premises. Attorney DeLuca stated that's not to say it would not be litigated at the ABCC; he is sure it would be. Attorney Simao stated that NPS has been a good operator and will continue to follow the rules and regulations of the Town of Foxborough. There is no change in the operation here and they will continue to comply with the rules and regulations and they are not asking for any exceptions to any of those. Attorney Simao has seen in other jurisdictions larger hotels that have had a violation in one club area that they did not want to cripple the entire operation which would impact an entire city. Attorney Simao has seen boards such as themselves be very practical in terms of such a large operation.

Mr. DeVellis stated where this was a public hearing he opened it up for any public comments, which there were none.

Motion by Christopher Mitchell to close the public hearing. Seconded by John Gray. **Vote 5-0-0**

Under discussion Mr. Gray stated that Attorney DeLuca had said they should look at it from 10,000 feet down to the details, does he suggest that they as a Board take the time to study this? Attorney DeLuca stated that it is really up to the Board's discretion; he knows that the applicants provided a good deal of information and certainly vetted a lot of what the Board has with regard to the public service agencies, the Building Department and the like. If there is something specific that needs to be reviewed they can take as much time as required. Attorney DeLuca stated that he feels comfortable that the Board has had the opportunity to see it from the highest and lowest levels in order to make a judgment whether or not what is proposed here, the alteration, is in the public interest and the public good. Mr. Mitchell asked with the addition of these two to three spots if they are going to run it as business as usual. Mr. Nolan stated there will be no change. Mr. Mitchell asked if there had ever been a liquor violation in which Ms. Coppola responded yes. Mr. DeVellis had stated there was an incident where someone had

served a kid in the stands and a patron had observed this. Mr. Nolan stated this was the only violation in the history of Gillette Stadium. Ms. Coppola asked what the protocol was for an Alteration of Premises; at what point do they come before the Board of Selectmen. Attorney DeLuca stated that it is a bit of an ambiguity and it also relates to one of the Board's alcohol regulations in that a change to the description of the licensed premises requires approval prior to permitting. This is a little bit different as counsel indicated earlier, it would be appropriate if there was going to be an expansion of the perimeter that was requested, typically, it would be a licensed premises that was going to be looking to expand into a parking lot, looking to add a deck, or looking to add a patio that was not otherwise within the perimeter of the licensed premises. In this instance Attorney DeLuca knows that the request for building came in the hearing here on alteration. What is critical however is the understanding that there will be no Certificate of Occupancy issued until after review and approval of the alteration. To some extent they proceed at their own risk. Attorney DeLuca does not see the regulations applying in this instance.

Motion by Christopher Mitchell to approve the application to Alter the Premises of the Annual All Alcohol License for NPS, LLC/Gillette Stadium. Seconded by David Feldman. **Vote 5-0-0**

8:10pm – Public Hearing – Splitsville/Howl at the Moon Change of Hours for Entertainment License – Daniel Glaberson (Cont'd)

Mr. Glaberson stated they are looking to amend their Entertainment license strictly on Thursdays from an 8:00pm start to a 6:00pm start in an effort to capture some of the walk around traffic. Mr. Keegan stated they actually had a pretty good first year. Chief O'Leary had noted that the operation has run pretty smoothly and he understands the request and it makes sense given the nature of the business that occurs there and this could coincide with the Thursday night games as well.

Chief O'Leary stated that since the opening of Splitsville last August they found that the management team in place is very receptive to suggestions either he or his staff has made. Their operation in terms of public safety has improved each additional month as the staff has gotten to learn a little bit more about Massachusetts laws and regulations especially where a lot of the team came from other parts of the country. He felt that this change of hours particularly on a Thursday night doesn't present any challenges or safety issues for our community.

Attorney DeLuca stated this was a very detailed license that was issued in connection with this request and that Thursday, Friday and Saturday were the licensed days, but in addition they are also licensed to a Stadium event date so there is the possibility of their operation continuing other than a Thursday, Friday and Saturday depending on the Stadium schedule.

Mr. Gray stated that when they were going through the process of determining what was appropriate for the community this was originally billed as a bowling alley for families and then at an appropriate hour it would turn into a nightclub which was supposed to be Howl at the Moon entertainers. The reason 8:00pm was chosen was because that was the time when nightclubs would really fire up. The Board had a long discussion on how they would ask kids to leave and are they saying that they are going to have to ask the kids and families to leave. Mr. Glaberson

stated depending on their license he thinks they are required to, so in that effort on Thursdays if he could say no he would say no but he doesn't know if that will be an option. Mr. Gray stated they have been through this and that was part of the transition from the lanes to the nightclub entertainment. Mr. Glaberson stated they are looking at it more as a live entertainment aspect to accompany their building at 6:00pm; they are not going to the nightclub aspect, it is more of having the live entertainment ability for people walking by the open garage door. They can hear the music, come in and listen to it; it is not going to be a nightclub scene. It will be the same entertainers but they will play more of the 70's and 80's songs; they won't be playing anything typically you wouldn't here at 6:00pm; it would be easy listening such as things you would hear on the radio. Mr. Feldman asked if the intent was still to have the bowling go on up until 8:00pm for minors. Mr. Glaberson stated yes. Ms. Coppola stated that according to the license once the entertainment starts at 8:00pm then it becomes a different scene, it becomes 21+. The whole idea of when the Board allowed the licensing of Splitsville was so Howl at the Moon was just a portion of it. The Entertainment license they agreed on was that it would be Thursday, Friday and Saturday at 8:00pm and it was pushed that Splitsville was family entertainment and on Thursday, Friday and Saturday Howl at the Moon would predominate. She is not comfortable with changing it. Mr. Glaberson stated that if they look at their overall weekly hours they are still the family bowling alley with great food and entertainment. When summer comes they will open at 11:00am every day of the week and right now they open at 4:00pm because the kids are in school so the additional two extra hours when they are open from 11:00am-12:00pm on seven days a week they don't think that is turning the concepts on Thursdays. Ms. Coppola stated no that they would have to start the nightclub aspect at 6:00pm on Thursdays rather than 8:00pm which means, the way they do business in there changes; it has to be over 21. Ms. Coppola commented on the Splitsville/Howl at the Moon St. Louis location operating hours. Mr. Mitchell also looked at their various schedules and stated they vary greatly. Ms. Coppola stated there was a lot of discussion about this and this was part of the entertainment license agreement that was both acceptable to the Board of Selectmen and Splitsville. Mr. Feldman asked if they have the ability to close four lanes that are over by the entertainment center and segregate the crowd for those two hours and Mr. Glaberson responded absolutely. Minors would be nowhere near the center stage or bar area. Mr. Mitchell asked if this entertainment license was amendable or do they need a whole new license. Attorney DeLuca stated that it is not unusual to amend, change or modify any license and it is not necessary that the Board revisit the license from the beginning, keeping in mind always it is again the public good and in that case it is public safety that is the town's concern.

Mr. DeVellis opened up discussion from the audience.

Ms. Walsh stated that Splitsville is not expanding their alcohol license, they are just asking for entertainment two hours earlier. Ms. Walsh supports the additional two hours for Thursday night.

Mr. DeVellis stated once they close the hearing the discussion between the applicant and the Board has to stop, they cannot hear any additional information.

Motion by Christopher Mitchell to close the public hearing. Seconded by John Gray. **Vote 5-0-0**

Mr. Mitchell stated that he is fine with it. He had checked like Ms. Coppola did all of their locations and all their hours are different. It seems like Thursday was the day that all of them juggled. If you averaged the entire Howl at the Moon hours on Thursday it was 6:30pm.

Mr. Keegan stated that one of the things he heard that was interesting was they could shut those lanes and keep them away from the over 21's and that sounded like a compromise. Mr. Gray stated they had spoken about this before and there was supposed to be a noticeable segregation and it is a curtain on one side and that is it. The physical segregation is not possible right now. Ms. Coppola went there and there was no segregation. Mr. Keegan stated there was an actual railing there. Ms. Coppola stated that was not what was agreed to, there was supposed to be an actual curtain or something. Mr. Feldman stated if it was after 8:00pm the curtain would be open anyway. Mr. DeVellis stated that he had also sat through all of those hearings and it was very detailed and a lot of attorney fees and he thinks it is rather early to be coming back asking for a change. He hasn't heard of problems, but they are a little too early to amend the license. Mr. Feldman stated that when a business comes to the Board and asks for something that can help generate more business and they are willing to take steps, the Board should support that even if it is on a trial basis. They have input from the Chief and he sees no issue with it. They should take that under advisement and help the local business out to try and attract new business which in the end would actually benefit the town. Ms. Coppola stated that Mr. Feldman was not on the Board when they had these long drawn out discussions and this was the compromise that was reached that was palatable to the Board of Selectmen and Splitsville. Mr. Feldman stated Ms. Coppola was correct, he was not on the Board at that time but he is on the Board now so they have been a good business and they have not had any issues and he thinks they should help support them. Mr. Mitchell stated that he agrees with Mr. Feldman and that he wasn't on the Board at the time either. He respects all that the Board had gone through but Splitsville has been open for a year and the Chief stated they have a perfect track record and each month they get better. It is a business in Foxboro and if one of the businesses wants to try to tweak things a little bit to improve business he thinks they have to say yes to it. Ms. Coppola stated that this is Splitsville and what they are trying to do is open up the secondary bar area for Howl at the Moon, and the license was not given to Howl at the Moon, the license was given to Splitsville which is a restaurant with a bowling theme. Mr. Mitchell stated that this is an application for Howl at the Moon's entertainment hours; that is what is in front of them. Mr. Gray asked Mr. Keegan if the other clubs that are up there that have entertainment hours begin at 8:00pm. Mr. Keegan stated that he believes that is true. Mr. Gray asked if this could possibly set precedence where all the other clubs would want to begin earlier. Chief O'Leary stated that every single business there has a different business strategy, so it's a variable. He does not perceive that bringing the hours earlier hurts the general public safety in the area. If they were coming in and saying they want to start the entertainment at 9:00pm and finish at 1:00am on a Friday or Saturday night that might pose a different challenge. To change the hours so they are finishing earlier makes more sense from his perspective of providing policing services. Mr. Gray stated that he is not requesting an earlier closing; he is asking to extend hours by two hours on Thursdays. Mr. DeVellis stated that the letter Mr. Glaberson sent was can they open from 6:00pm rather than 8:00pm but the closing hours stay the same. Mr. Glaberson stated that actual closing time would be anywhere from 11:30pm to midnight. Mr. DeVellis stated this is a little bit of a conundrum because it is not in the request but the Board could make the motion and make it a condition. What Mr. Glaberson

is saying is that they open two hours earlier but finish the entertainment earlier by a half hour to an hour. Mr. Glaberson stated that right now they end at 12:30am and would mostly likely end at 12:00pm. Ms. Coppola stated as a business model they are asking to start earlier to get the early business so why would the people that are in there not expect to have entertainment until 12:30am. Mr. DeVellis stated the public hearing is closed so they can't ask the applicant questions. Mr. Keegan stated that it is the staff's understanding that this was a 6:00pm to 10:00pm license. The fact that it is being asked to go to 12:00pm tonight he was not aware of this. Mr. DeVellis stated that he didn't hear the applicant saying that he wanted to go from 10:00pm to 12:00pm; he said it's already going from 12:30am to 1:00am and this request is only to bring it back two hours. Whatever the existing license is, it is what it is. Mr. DeVellis asked Mr. Keegan if he thought the license only went until 10:00pm. Mr. Keegan thought it was only a 10:00pm license and that was also Chief O'Leary's understanding. Mr. DeVellis asked if there was an email that was sent stating they wanted it at 10:00pm. Mr. Keegan thought he had a conversation with Mr. Glaberson on this and if he was wrong he apologizes.

Mr. DeVellis suggested as there was a lot of uncertainty on the hours right now and where they did ask specifically for Splitsville/Howl at the Moon to come back once they were running to let the Board know how it is going he thinks they should table this until they come in and give the Board a presentation and they have all the facts before they make a hasty decision on this. Mr. Keegan is thinking one thing, the Chief is thinking another and either they reopen this hearing now which he has no problem doing or continue it until they have all the facts. Mr. Gray asked if they would have to repost the public hearing. Attorney Deluca stated they can continue the hearing.

Motion made by Christopher Mitchell to reopen the public hearing. Seconded by David Feldman. **Vote 5-0-0**

Motion made by Christopher Mitchell to extend the public hearing to June 9, 2015 Board of Selectmen's meeting. Seconded by John Gray. **Vote 5-0-0**

8:40pm – Trash Program Discussion – A.J. Dooley

Mr. Keegan informed the Board that Town Counsel stayed because they have been having discussions with A.J. Dooley to work on a new contract with Mr. Dooley, his company and his counsel. Over the last couple of months they have been working with A.J. Dooley and Russell Disposal who actually has a contract with several residents in town to collect all the trash and recycling.

The situation has evolved where Mr. Dooley has actually entered the final stages of an agreement with Russell Disposal to acquire all of their customers. Effectively the town will have one trash company in town doing all of the residential trash collection and recycling. The goal is to have this in place by July 1, 2015. They are still working on finalizing that agreement and they are all anxious to close all the details between Russell and Dooley to try and get all those pieces figured out. They are very close and within the next few days they should have it all figured out. This is a two-phase discussion, tonight is to let everyone know that it is coming and the goal is to have it in place by July 1, 2015. We are very grateful and fortunate that it has worked out as well as it

has. One of the things they discussed prior to the contract was that there are no waste hauling regulations in the town. As such, Mr. Keegan's been working with the Director of Public Health, the Town Engineer, the Public Works Director, Ms. Bernard, and the DEP Consultant, Kathy Mercer. Ms. Mercer agreed to work with us and provide us with some guidance to develop such a regulation. Mr. Keegan gave the Board draft regulations that have been a culmination of a lot of work over the past several months. The purpose of the regulations is to provide a certain amount of protection for the community and to establish some clear guidelines for any person that takes out a permit for trash or recycling within the community. They are working through some pieces and Mr. Keegan actually solicited the input of Mr. Dooley and his company to see if they had any thoughts about the regulations as they proposed it and a number of his ideas were incorporated into the regulations. What they have is a collaborative process which is culminated in this document before the Board tonight. He's not asking the Board to approve it tonight he is only asking for them to review it and if they have any questions or comments on it they can actually finalize this on June 9, 2015.

Mr. Keegan stated it has been a very good process and he appreciates the work that Mr. Dooley has done and Town Counsel in trying to work out the details. This is an interesting process because effectively the town is not buying anything from A.J. Dooley or any trash contractor. Going forward A.J. Dooley is providing a service to the residents in town and will continue to collect trash and recyclables through a contract that is made directly through A.J. Dooley and as such that arrangement is not going to change. The one thing that is important for the residents to know is that Mr. Dooley has agreed to continue doing the service that Russell Disposal has been doing right along. At one point his model will grow into the model that he is used to doing but for the time being so it becomes seamless to the residents the process will continue to be as they have been doing right along.

Mr. Dooley introduced himself and his partner, Anthony Spitalieri. Mr. Dooley stated that Mr. Spitalieri has been with A.J. Dooley a little over two years now and he has been involved with this since the beginning. As Mr. Keegan stated it has been a good process and they are getting to the final stages of it. They look forward to being the large majority trash vendor in the town.

Mr. Feldman asked how this is helping grow A.J. Dooley's business. Mr. Dooley stated over the last three years it is been a very interesting situation. Mr. Dooley went out and really fought hard to get the 2,200+ customers they have right now. They base this on that there are really 4,200 homes out there and he worked hard and got over half of those and getting the rest will help. There is a reason why towns offer municipal contracts and if you're picking up every single house there are more profits there and then they can give a better price and there are a lot of things that can go into that. For them getting to that point is as important to the town as it is important for them.

Mr. Keegan stated that one important thing to note is that being a relatively new company in this business one of the things that this does offer to A.J. Dooley is that he can now actually say he collects trash/recycling for an entire community which he does portions of other towns and he can actually compete for contracts in other communities as well. Mr. Dooley stated he does not have municipal experience but he has been doing this his whole life; fourth-generation and he has been running this business for 17 years. When they go to another town they can check that

box and he would like to think that it was the only thing keeping him from getting Foxborough's business the first time.

Mr. Gray asked if A.J. Dooley was comfortable working without a contract and that he has to gain the confidence of his customers. Mr. Dooley stated it is a house by house business and if they are not happy with him they can leave. Nothing is changing the way they are going to operate. Every customer is important to him and there is not a phone call or E-Mail that they do not get back to. They are only as good as the residents in Foxboro every phone call, E-Mail, and customer matters to them and nothing is going to change there. Mr. Gray stated that it is healthy for the consumer and good for A.J. Dooley. Mr. Dooley said it was a win-win.

Mr. Mitchell asked Mr. Dooley if he had bought out Russell's portion of the trash contract and if he made a deal with Russell Disposal. Mr. Dooley stated they were in the process of finalizing things and he didn't want to get into it too much. Mr. Mitchell asked on the town side if we would have a contract with A.J. Dooley and Mr. Keegan stated yes. Mr. Dooley stated they would basically take over Russell's portion of the contract for the municipality.

Mr. Mitchell had a few questions on the regulations, specifically dumpsters; he knows that having done work in different towns at an apartment building or a school they have to be screened. Other communities require the dumpsters to be on a cement slab and he doesn't see that in the regulations and asked if that didn't have to be done in Foxborough and asked if that was a state regulation. Mr. Dooley stated it certainly wouldn't be on his company to put the cement slab in. Mr. Mitchell stated no, it would be whoever the entity was and asked Mr. Keegan to look into that. Mr. Mitchell asked if anyone coming through town had to have a trash permit now. Mr. Keegan stated that anyone actually doing business in town has to have a permit with the Board of Health. Mr. Gray stated that they actually have to have a permit in every town that they transport. Mr. Mitchell asked whose policies this is under, which Mr. Keegan stated the Board of Health. Mr. Keegan stated the Board of Health will still handle the public safety portion of it but as far as everything else it will be handled through the Board of Selectmen and DPW offices.

Ms. Coppola stated that A.J. Dooley has a contract to pick up the trash for the town but residents can choose whomever they want as long as they are permitted with the Board of Health. Ms. Coppola stated it is just a majority of the households that will be going off the Russell/A.J. Dooley contract.

Ms. Coppola asked if starting July 1, 2015 if people were hoarding the Russell trash bags if A.J. Dooley would honor those bags. Mr. Dooley stated that hopefully everything they are working on will be settled in the next few days and in that case the residents will have 3-4 weeks' notice of letting people know of the change. Ms. Coppola asked if they could work this into the contract. Mr. Spitalieri stated that what is going to happen is there will be a definitive date when they transition this, right now it is July 1, 2015 and what will happen is the color of the stickers will change. The hope is that within the next week this is all hashed out and they are able to get a letter out to the consumers with four weeks' notice. What he would say is that they have discussed with their counsel the opportunity to possibly have a grace period whereby if someone has been hoarding a Russell sticker they will allow them to return that. That has not been

completely hashed out and is on the table as a talking point right now. Mr. Dooley stated they would be eating the cost unless they negotiated with Russell. Ms. Coppola stated that is all she is asking is that they work out some type of agreement.

Mr. DeVellis stated that he is one of A.J. Dooley's customers and he has been doing great work for the past three years including the Foxboro Clean Up Day and the dumpsters he has donated but he had to ask the question if they were going in the direction that this could be a monopoly and five years from now A.J. Dooley turns into bad A.J. are they stuck with a monopoly. Mr. Dooley stated that in this contract he has stated that he is going to pick up the town trash so for every customer he would lose because he turned into bad A.J. he would only be hurting himself. He needs the customers to offset what he is paying. Mr. Dooley stated this is a win-win because if this didn't happen the way it happened there would never be a contract in the town of Foxborough because back three years ago there was a quote that Foxborough was out of the trash business and from that point on they really could've been out of the trash business but we have this unique situation where someone is willing to come in and still take care of the residents in the town and give them a good, fair price at his risk and that's why it is truly a win-win. He hopes that everyone has the faith in him that he has in them and hopes the whole thing will work out. Mr. Keegan stated they have had this conversation and the market will dictate if he is being unfair to the residents and they will go somewhere else and that will only hurt him.

Mr. DeVellis stated Mr. Keegan wasn't looking for a vote this evening but a general thumbs-up to proceed with the regulations in the contract. Mr. Gray stated that he was asking them to put it on the agenda for June 9, 2015. Mr. DeVellis stated they will put it on the agenda for June 9, 2015 and if the Board has any comments they will get them to Mr. Keegan before that date. Ms. Coppola asked if Mr. Keegan would also take comments from the public in which he responded yes.

8:57pm – Town Manager Update

Mr. Keegan thanked everyone for yesterday's events.

There is an annual Household Hazardous Waste Day coming up on June 6, 2015 and will be held at the Highway Garage at 70 Elm Street. It will be from 9:00am to 12:00pm and there is a whole list of accepted items. If anyone has any questions on this call the Highway Department at 508-543-1228 and they also may call the Board of Selectmen office as well.

If residents have seen the flags posted along the streets which is a nice touch during Memorial Day they will also see those flags posted on Flag Day - June 14, 2015, July 4, 2015, Purple Heart Day - August 7, 2015, Patriots Day - September 11, 2015, and from the third Friday in September until after MIA/POW Day - November 11, 2015 which is Veterans Day and Pearl Harbor Day - December 7, 2015. This schedule was given to Mr. Keegan by Michael Johns, our Veterans Agent and he wanted to give special thanks for his work yesterday in putting the program together. Mr. Johns not only does a great job representing the community but also at the State level as well being the President of the Veterans Service Officers organization. Mr. Mitchell stated that most of the flags were new and that was because of his Eagle Scout organization and there will be another Eagle Scout that will want to add more flags. His troop

took the lead in helping the VFW a few years ago as they were getting up in age and they could only get one or two people to put out the flags so his troops seven adopted the VFW and they are very appreciative of that and so is Mr. Johns as well.

Ms. Coppola stated that last year they had talked about the Purple Heart community and getting signs and she knows there were a variety of signs. Mr. Keegan stated he would speak to Mr. Johns about this. Ms. Coppola stated that it was discussed of having one at every entrance of the town and she doesn't know if that went any further. Ms. Coppola asked if they could do that now rather than rushing it at the end.

Mr. Keegan wanted to congratulate all the graduates that would be graduating June 7, 2015 at 2:00pm. There will be a special ceremony at Foxborough High School.

Ms. Bernard stated that today they swore in a new Lateral Police Officer, Kenneth Fitzgerald. He came to Foxborough from Natick where he had 16 years of experience. He has some really great skills such as accident reconstruction training. Today is his official first day and Ms. Bernard will bring him to a future Board of Selectmen meeting so they can meet him.

9:03pm – Action Items

Motion by Christopher Mitchell to approve the Seven Day Entertainment License addition for Blue Fin Lounge. Seconded by David Feldman. **Vote 5-0-0**

Motion by Christopher Mitchell to approve the acceptance of a gift from the Foxboro Jaycees in the amount of \$250 to the Boyden Library. Seconded by David Feldman. **Vote 5-0-0**

Motion by Christopher Mitchell to approve the acceptance of a gift from the Foxboro Moms Club to the Boyden Library in the amount of \$100. Seconded by David Feldman. **Vote 5-0-0**

Motion by Christopher Mitchell to approve the acceptance of a gift from Daniel St. Laurent of Stop & Shop of a \$50 gift certificate to be used toward food purchased by an instructor for a nutrition class at the Senior Center. Seconded by David Feldman. **Vote 5-0-0**

Motion by Christopher Mitchell to approve the Hackney License of Wallace W. Chase, Jr. Seconded by David Feldman. **Vote 5-0-0**

Motion by Christopher Mitchell to approve the Hackney License of Robert Eugene Raymond. Seconded by David Feldman. **Vote 5-0-0**

Motion by Christopher Mitchell to approve the request by Sharon Wason for \$3,000 from the Economic Development Fund to hire Meghan McNulty for a business guide for starting a business in downtown design guidelines. Seconded by David Feldman. **Vote 5-0-0**

9:08pm – Information Items

Mr. DeVellis stated there was an accessory use apartment building permit for 37 Hayden Drive which is going through the Planning Board.

There is a 2015 training course.

The site plan for the new town hall has been filed and that hearing is coming up on Thursday.

Motion by Christopher Mitchell to adjourn at 9:12pm. Seconded by David Feldman. **Vote 5-0-0**